

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

JANET MOSELY, et al.,

Plaintiffs,

v.

STATE OF MISSOURI; CORIZON,
INC.; IAN WALLACE; TRAVIS
WILHITE; and DONNA SPAVEN,

Defendants

Case No. 1:15CV00052 AGF


MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. The action was brought by the widow and surviving children of a Missouri inmate who died while incarcerated in a Missouri Prison. Plaintiffs seek damages under 42 U.S.C. § 1983 and Missouri's wrongful death statute and tort law. By Memorandum and Order dated April 17, 2015, the Court granted the motion to dismiss the official capacity claims against the two individual Defendants who were prison employees (Ian Wallace and Travis Wilhite), and the § 1983 claim against the State. (Doc. No. 31.) The Court reserved ruling on the motion to dismiss the state claims against the State (wrongful death, negligent hiring, and negligent supervision) as barred by sovereign immunity pursuant to Missouri Revised Statutes § 537.600. The Court granted Plaintiffs up to and including May 6, 2015, to amend their complaint to plead facts that would establish that the State of

Missouri has waived its sovereign immunity, by the purchase of liability insurance, with respect to the state law claims against it. Absent such amendment, the claims in question were subject to dismissal. To date, no amended complaint has been filed.

Accordingly,

IT IS HEREBY ORDERED that the aspect of the motion (Doc. No. 13) of the State of Missouri to dismiss the state law claims against it is **GRANTED**. All claims against the State of Missouri having been dismissed, the Clerk's Office shall terminate the State of Missouri as a Defendant in this action.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 11th day of May, 2015.